

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

1.

CWP No.21642 of 2014
Date of Decision: 06.02.2018

Anita and another

. . . . Petitioners

Vs.

State of Haryana and others

. . . . Respondents

2.

CWP No.21224 of 2014

Kapoor Chand and another

. . . . Petitioners

Vs.

State of Haryana and others

. . . . Respondents

CORAM: - HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr.Ashish Gupta, Advocate,
for the petitioners.

Mr.Saurabh Mohunta, DAG, Haryana.

Mr.Rohan Sharma, Advocate,
for respondent No.6.

RAKESH KUMAR JAIN, J. (ORAL)

This order shall dispose of two petitions bearing *CWP No.21642 of 2014* titled as “*Anita and another Vs. State of Haryana and others*” [hereinafter referred to as ‘the 1st petition’] and *CWP No.21224 of 2014* titled as “*Kapoor Chand and another Vs. State of Haryana and others*” [hereinafter referred to as ‘the 2nd petition’] as the issue involved therein is identical i.e. regarding the award of compensation in case of death of Arushi daughter of Anita and Vikas Kumar son of Kapoor Chand. However, for the sake of convenience, the facts are being extracted from the 1st petition.

In brief, on 9.10.2011, at Shri Ram Colony, explosion in crackers, stored in the property of Vakil Ahmed, took place in which Arushi daughter of Anita, Naresh husband of Anita and Vikas son of Kapoor Chand lost their lives. Anita had preferred CWP No.15283 of 2012 for seeking compensation on account of the death of her husband Naresh Kumar. The said petition has already been decided by this Court on 1.12.2014 by awarding compensation of ₹7.5 lac with interest to be paid @ 7.5% from the date of accident. The liability has been fastened upon the State to make the payment with the right to recover the money paid to the claimants from Vakil Ahmed, who was the owner of the property in question in which the explosive material was stored. It was ordered that the State would be at liberty to take independent action against Vakil Ahmed or any other person associated with him, if there had been any, the same shall not be deferred for any reason to await the outcome of any independent proceedings that the State could take against Valik Ahmed and the persons associated with him.

Learned counsel for the petitioners has relied upon two decisions for the purpose of awarding compensation. One by the Supreme Court in the case of *“Kishan Gopal and another Vs. Lala and others”* 2013 (4) RCR (Civil) 276 and another by the Delhi High Court in the case of *“Delhi Development Authority Vs. Bhagwan and others”* 213 (56) RCR (Civil) 173.

It is submitted that in the case of *Bhagwan and others (Supra)*, the Delhi High Court has awarded ₹11,25,000/- as pecuniary compensation and ₹1,53,509- towards non-pecuniary damages, in total an amount of ₹12,78,509/- was awarded in case of the death of 7 years old child.

However, in the case of *Lala and others (Supra)*, the Supreme Court has awarded compensation to the tune of ₹5 lacs in the case of death of 10 year old child.

Learned counsel for the respondents has submitted that in the case of Vikas, compensation to the tune of ₹4 lac has already been paid which is not denied by the counsel for the petitioners. However, in the case of Arushi, compensation of ₹2 lac is stated to have been paid to the petitioner.

There is no dispute that Arushi is the daughter of Naresh Kumar, who also died in the same accident and has been awarded compensation to the tune of ₹7.5 lacs being an adult and earning member. Therefore, I would rely upon the decision in the case of *Lala and others (Supra)* in which the Supreme Court has held that the notional income of the child should be taken as ₹30,000/- and since his parents were 36 years of age, therefore, multiplier of 15 was applied to ₹30,000/- which came to ₹4,50,000/- and ₹50,000/- awarded under conventional heads (i.e. loss of love and affection, funeral expenses, last rites etc.), ₹30000 was assessed by the Supreme court in the order dated 2013 but the case is being decided in the year 2018, therefore, I would add ₹1 lac more to the amount to be paid in the case of death of Arushi, therefore, it is held that the mother of Arushi is entitled to ₹6 lacs minus 2 lacs already received by her from the State. The amount of ₹4 lac shall be paid to her with 7.5% interest from the date of accident till its realization.

Similar principal is applied to the case of Vikas as well in whose case an amount of ₹4 lac has been awarded and the amount of ₹2 lac

more is liable to be awarded by the respondents-State to the petitioners which shall be paid to them along with 7.5 % interest from the date of accident.

With these observations, both the petitions are hereby disposed of.

It is needless to mention that the liability of Vakil Ahmed, owner of the property in question in which explosive material was stored, shall be the same as has been held by the Coordinate Bench of this Court in CWP No.15283 of 2012

A photocopy of this order be placed on the file of another connected case.

06.02.2018

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No